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REMARKS

Claims 11-18 are rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1-23 of patent 6,673,620. That rejection is respectfully traversed and reconsideration is requested.

The '620 patent claims priority to an April 20, 1999 filing date, which is subsequent to the priority date of the present application. The '620 claims are directed to a method of drawing reagent into a closed chamber by first applying a vacuum to the chamber and then drawing the reagent into the chamber by means of that vacuum. The approach of the '620 patent is not at all suggested by either the claims or the disclosure of the present application. Accordingly, the double patenting rejection should be withdrawn. In addition, claims 11-18 of the present application recite that liquid drops into the cavity of the slide. As just noted, reagent is not dropped into the cavity in the claims of the '620 patent, but is rather drawn into the cavity by a previously applied vacuum.

Claims 3-18 were rejected under 35 U.S.C. 102(e) as being anticipated by Bogen (U.S. patent 6,183,693). That rejection is respectfully traversed and reconsideration is requested.

As noted by the Examiner at page 3 of the Office Action dated October 3, 2002, the subject matter of this application was presented in priority patent 5,654,114, which has a filing date of May 31, 1994. Patent 6,183,693 was filed subsequent to that priority date in 1998. Accordingly, the '693 patent cannot be considered prior art under 35 U.S.C. 102(e) since the '693 patent was not filed before the invention of the present application.

Claims 3-18 were rejected under 35 U.S.C. 102(b) as being anticipated by either of the Bogen patents 4,847,208 and 5,073,504. That rejection is respectfully traversed and reconsideration is requested.

The present claims are directed to a slide stainer and method in which liquid is dropped from an orifice of a liquid dispenser into the cavity of a slide housing. The orifice and slide

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housing are capable of movement relative to each other under microprocessor control so as to align the dispenser with the slide. Each of the '208 and '504 patents discloses a system in which fixed connections were provided through tubing 10A to the individual slide housings. There is no movement of dispensers relative to the housings under microprocessor control. Accordingly, the present claims are neither anticipated by nor made obvious by the cited patents.

CONCLUSION

In view of the above remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

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Dated: 7/9/4